

*Shackles*



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Rowe Contracting Service, Inc.

**File:** B-234633

**Date:** March 20, 1989

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### **DIGEST**

Protest that the contracting agency improperly amended the closing data for receipt of proposals, as well as certain solicitation requirements and evaluation criteria, subsequent to the initially established closing date is dismissed as untimely since the objections, which are alleged solicitation improprieties, were not protested by the next closing date following the issuance of the amendments as required by the General Accounting Office's Bid Protest Regulations.

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### **DECISION**

Rowe Contracting Service, Inc., protests the proposed award of a contract by the Department of the Army under request for proposals (RFP) No. DAAH03-88-R-F078 for escort services. Rowe contends that award may not properly be made based on any offer that was submitted after the initially established closing date. Rowe also protests the evaluation of offers under any evaluation criteria other than those contained in the solicitation at the time it was issued.

We dismiss the protest.

The RFP was issued on August 17, 1988, with a closing date of September 16, 1988. On that date, eight proposals were received in response to the RFP. The Army states that on October 5, it issued amendment 001 to the RFP to correct an administrative error in the solicitation number and to extend the closing date to November 4 to allow the participation in the procurement of 14 other firms which had requested but had not been provided the solicitation package because of the error in the solicitation number.

On November 10, in response to a protest of the solicitation requirements (filed in our Office on November 2, and

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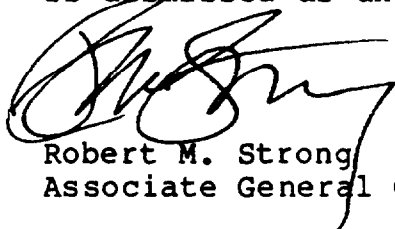
subsequently withdrawn by the protester), the Army issued amendment 002 to the RFP to clarify the contested requirements. The Army states that amendment 002 effected changes to the evaluation criteria to increase competition and further extended the closing date to November 28.

On November 28, 10 offerors submitted proposals, and following discussions, the Army requested submission of best and final offers by February 27, 1989. On February 27, Rowe, the incumbent contractor, filed the subject protest in our Office, contending that the agency acted in bad faith to the protester's prejudice by extending the closing date after initial proposals had been received and that the amendment of the solicitation's initial requirements and evaluation criteria was unnecessary.

The Army requested that we dismiss Rowe's protest as untimely. Rowe has had an opportunity to comment on the Army's request, and expresses the view that its protest is timely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988). To the contrary, however, Rowe's protest is untimely under the referenced provision.

Under 4 C.F.R. § 21.2(a)(1), alleged solicitation improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation. Thus, to be timely, Rowe's protest of the extension of the initial closing date was required to be filed prior to November 4, 1988, the first closing date established subsequent to the initial one. Similarly, in order to be timely, Rowe's protest of the changes to the RFP's requirements and evaluation criteria must have been filed prior to November 28, the next closing date following the incorporation of those changes.

Since the protest was not filed prior to the relevant closing dates for the submission of proposals, the protest is dismissed as untimely.



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